

REMARKS

Applicant respectfully requests reconsideration of the present application in view of the foregoing amendments and in view of the reasons that follow.

Claim 3 is currently being canceled.

Claims 1, 9, 11, 19, and 20 are currently being amended.

This amendment adds, changes and/or deletes claims in this application. A detailed listing of all claims that are, or were, in the application, irrespective of whether the claim(s) remain under examination in the application, is presented, with an appropriate defined status identifier.

After amending the claims as set forth above, Claims 1, 4-6, 8, 9, 11, 12, and 14-20 will be pending in this application.

Claim Amendments

In order to correct certain informalities, Claim 3 has been cancelled and Claim 11 has been amended to depend from Claim 9.

Additionally, independent Claims 1, 9, 19, and 20 have been amended to recite a further limitation that the chamber is sterilized. Support for this amendment can be found within the originally filed application at least at line 14, page 6. Applicant believes that no new matter is added by way of this amendment.

As an initial matter Applicant wishes to thank the Examiner for correctly pointing out that the “there is no evidence of record to support applicant’s statement that ‘the ‘451 application ... is a continuation in part of the ‘505 application. Any confusion on the part of the Applicant that the ‘451 application was a continuation in part of the ‘505 application was likely due to the incomplete reference provided on the cover page of the ‘451 application, referring to a “not furnished (CIP)” filed on October 3, 2001. In fact, the ‘451 application is a continuation of U.S.

Patent Application Serial No. 10/111368 ('368 application), filed on October 3, 2001, now issued Patent No. 7,008,366. Mr. Rosiello would be glad to furnish a revised declaration to this effect, should the Examiner request such a revised declaration.

Applicant's attorney next wishes to address a characterization of Mr. Rosiello's testimony at page 4 of the Office Action mailed on June 14, 2006 in the above-captioned application. In particular, the Office Action questions the veracity of Mr. Keith Rosiello's testimony in paragraph 20 of his Declaration Under 37 C.F.R. §1.132, dated May 19, 2006, which was submitted in the above-captioned application on May 22, 2006. Mr. Rosiello states in regard to the '006 patent (U.S. Patent No. 2,686,006 to V. H. Hasselquist) that the "structure disclosed and illustrated therein, does not possess an axial opening through both sides of the bellows."

Applicant's attorney wishes to clarify that Mr. Rosiello's characterization of the '006 patent is founded on the operative aspects of the '006 device. Mr. Rosiello states that the structure "does not possess an axial opening through both sides of the bellows" and "in fact, the bellows pump would be rendered non-operational [if it were] to have an axial opening on both sides, since it would not be able to compress air internal to the bellows – it would escape out the sides" (emphasis added).

Referring to the '006 patent, a collapsible pump is described for inflating hollow inflatable articles, such as a pneumatic mattress. In operation, air is drawn in at an intake end of the pump and expelled from an opposite end towards the item being inflated. To achieve such a unidirectional airflow forcing air into the inflatable article, the '006 patent relies on a series of check valves positioned at either end of the device. As recited at column 4, lines 10-11 of the '006 patent, referring to the intake end of the pump, a "combined end wall 17 and element 21 to effect a check valve function." (Col. 4, ll. 10 11). An operator's hand covers the apertures 19, 22 during a compression stroke, such that air unable to exit from the intake end is forced out of the opposite end of the pump. Likewise, during an expansion stroke, the hand is removed from the aperture providing an opening allowing air to flow into the expanding pump from that end. A check valve at the opposite end then closes so that air is not withdrawn from the intake end

during the expansion stroke, which would deflate the article being inflated. Thus, only one end of the device would be open at any given time during its operation. If both ends were open during operation, compression of the pump would “escape out the sides” as testified by Mr. Rosiello.

Rejections Under 35 U.S.C. §102(b)

Claims 1, 3-6, 8, 9, 11, 12, and 14-18 stand rejected under 35 U.S.C. §102(b) in view of U.S. Patent No. 2,686,006 to Hasselquist (hereinafter, the ‘006 patent). Applicant responds accordingly.

In the interest of furthering prosecution of the above-referenced application, each of the independent claims is amended herein to add a further limitation not found in the ‘006 reference. Upon entry of this amendment, each of independent Claims 1, 9, 19, and 20 will recite a limitation that the flexible chamber is sterilized. No such feature is recited in the ‘006 patent as there is no apparent requirement for such a requirement given the nature of the device and applications described therein.

Applicant respectfully submits that as amended herein, independent Claims 1 and 9 are not anticipated by the ‘006 patent, at least because the ‘006 patent fails to disclose, teach, or suggest that the pump is sterilized. By their dependence on a respective one of independent Claims 1 and 9 and any intervening claims, dependent Claims 3-6, 8, 11, 12, and 14-18 are also not anticipated by the ‘006 reference for at least the same reasons.

Claims 1, 3-6, 8, 9, 11, 12, and 14-20 stand rejected under 35 U.S.C. §102(b) in view of International Publication No. WO 02/28451 to Zymequest Inc. (hereinafter, the ‘451 publication). Applicant agrees with the Examiners assertion on page 4, paragraph 11 that “the individual sub-bags such as 10 and 50 do not meet the limitations of the instant claims.” The Examiner further states that the “applicant has not addressed how such sub-bags connected

axially (such as the combination of FIG. 3 when assembled) relate to the limitations of the instant claims.” Applicant responds accordingly.

Turning briefly to the ‘451 publication, the reference describes multiple processing chamber sets for processing simultaneously and independently a number of separate samples at one time in a centrifugal cell processing device. (‘415 publication, pg. 5, ll. 23-24). Each of the bags 10, 50 has an axial aperture 11, 51 where a central hub is joined. (pg. 6, l. 31 through pg. 7, l. 1). Thus, interconnection occurs through the central hubs. As described at pg. 7, ll. 13-14, each of the respective central hubs has a different male-female connection to prevent connection with a like hub. As further described at ll. 23-32, each of the hubs contains several independent fluid passageways, with each processing chamber or bag having a unique and independent fluid pathway through the assembled set of hubs.

Thus, the exemplary expressor bag assembly of FIG. 3 illustrates two bags 31, 32 each coupled to a respective hub (the hub being the axially protruding regions extending outwardly from each side of the central portion of each bag). Interconnection along the axis occurs at the central hubs and not at the bags. Such interconnection through the hubs is necessary to ensure that each processing chamber or bag has a unique and independent fluid pathway through the assembled set of hubs. If the bags were interconnected directly as suggested by the Examiner (i.e., without the hubs), it would be inconceivable how each bag could have a unique and independent fluid pathway.

Accordingly, Applicant respectfully disagrees with the Examiner’s characterization of the ‘451 publication as describing, teaching or even suggesting sub-bags connected axially. Rather, the device shows individual bags, each of a type the Examiner agrees is distinguishable from the claimed invention, interconnected to a respective hub. Axial interconnection occurs between the hubs and not the bags. Thus, there is no description or suggestion that any of the adjacent bags are interconnected.

Applicant respectfully submits that the flexible chamber as recited in each of independent Claims 1, 9, 19, and 20 is not anticipated by the '451 reference, and therefore allowable, because the '451 reference fails to disclose, teach, or suggest all of the limitations of each independent claims. Based on their dependence from allowable independent claims, dependent Claims 3-6, 8, 11, 12, and 14-18 are allowable for at least the same reasons.

Applicant believes that the present application is now in condition for allowance. Favorable reconsideration of the application as amended is respectfully requested.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 50-3431. Should no proper payment be enclosed herewith, as by a check or credit card payment form being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 50-3431. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 50-3431.

Respectfully submitted,

Date 12/14/2006

FOLEY & LARDNER LLP
Customer Number: 48329
Telephone: (617) 342-4080
Facsimile: (617) 342-4001

By Ralph Tremontozzi

Ralph Tremontozzi
Attorney for Applicant
Registration No. 55,686